10 March 1971

MEMORANDUM FOR THE RECORD

SUBJECT: Request for Agency Position on "Cost of Living" Amendment Proposal by Office of Management and Budget

1. Talked with Robert Hull, Department of State on the Civil Service Commission's proposed legislation to assure a retiree an annuity not less than what he would have received had he retired effective with a preceding cost of living adjustment. Hull said that they too had been "gigged" by OMB to get their report in on the proposal (like us, they were first given the standard 30 days for the report, which was shortened to two weeks and now OMB erroneously claims that a deadline of 9 March had been set).

2. We discussed the merits of the proposal, coming out just about where we did on 3 March, when we first talked about it. The disadvantages appear to outweigh the advantages except for the lessening of administrative burden on the Civil Service Commission caused by bunched up retirements prior to a cost of living adjustment under current law. The costs of the proposal far outweigh the administrative savings. The proposal also takes away the incentive to retire by a fixed date in order to qualify for a COL adjustment, and spreads the time frame from some three to ten months, with corresponding effect on ceiling reduction through voluntary retirement. This could be a major problem with the Department of Defense, but apparently the views of DOD have not been solicited.

3. Aside from these considerations, State may be reluctant to buck the proposal because of possible adverse spin off from CSC on legislative proposals on the Foreign Service retirement system.

4. I told Hull that despite the snafu in OMB in setting a time deadline for our report, in view of the obvious push I would be recommending that we give OMB an oral report to be followed up by a written report if they wish. I said we would probably arrive at our position some time today and I would let him know the outcome.

5. Separately, Hull advised that two proposed amendments to the Foreign Service retirement act receiving serious consideration would (a) provide orphans with survivor benefits at Social Security levels, and (b) permit an unmarried employee to designate dependents other than children or spouse as beneficiaries for death in service benefits and possibly survivor annuity benefits as well.

STATINTL

6. Later, Mr. Harry Fisher called and advised that, based on his review and discussions with Mr. Coffey and [redacted] we should support the proposed legislation and interpose no objection. Based on this I called Hilda Schreiber, OMB, and relayed this position to her and she said there would be no need for a written report unless we wanted to submit other considerations. In response to her question, I told her that if the proposed legislation was enacted, similar amendments for the CIA Retirement Act would probably be proposed primarily to overcome the administrative problems of treating Agency employees differently, depending upon the retirement system to which they belong. Subsequently, I advised Hull of our action and he said they would take the same position but they might well point out the disincentive aspects of the proposal.

STATINTL

[redacted]

Assistant Legislative Counsel

Distribution:
Orig. - Subject
1 - Chrono
1 - D/Pers
1 - OGC [redacted]

STATINTL

OLC 71-0127

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

February 26, 1971

LEGISLATIVE REFERRAL MEMORANDUM

To: Legislative Liaison Officer

Treasury Department
State Department
Central Intelligence Agency ✓

Subject: Civil Service Commission draft bill "To liberalize eligibility for cost-of-living increases in civil service retirement annuities."

The Office of Management and Budget would appreciate receiving the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with Budget Circular A-19.

(X) To permit expeditious handling, it is requested that your reply be made within 30 days.

( ) Special circumstances require priority treatment and accordingly your views are requested by

Questions should be referred to Miss Hilda Schreiber (395-3736), or to Mr. Victor Zafra (395-4650) ~~the~~ legislative analyst ~~in this~~ office.

Naomi R. Sweeney

Naomi R. Sweeney, for
Assistant Director for
Legislative Reference

Enclosures

UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON, D.C. 20415

CHAIRMAN

February 12, 1971

Honorable George P. Shultz
Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Shultz:

Attached is a copy of a letter with which the Commission proposes to submit to the Speaker of the House and the President of the Senate draft legislation, also attached, amending the Civil Service Retirement law to provide that the immediate (not deferred) annuity of an employee or Member of Congress retiring after the effective date of a cost-of-living annuity increase shall not be less than his annuity would have been if he had retired and had been eligible for annuity on the effective date. Similarly, the proposal provides that the annuity of an employee's or Member's widow(er) commencing after the effective date of a cost-of-living annuity increase shall not be less than it would have been if it had commenced on the effective date. The justification for this legislation is included in the letters to the Speaker and the Vice President.

Whether an employee's annuity will be greater computed on the basis of (1) service and salary up to the effective date of the most recent cost-of-living increase, plus that percentage increase or (2) all service and salary up to the later date of actual separation, without a cost-of-living increase, depends on factors which vary with the individual. Assuming a normal pattern of past and future salary increases, and a 5 percent cost-of-living increase, an employee would need 3 - 10 additional months' service, depending on his total years of service, for his annuity without the cost-of-living increase to equal the amount he could get if he had retired on the effective date of the cost-of-living increase. Under the proposal, an employee would in all cases receive the larger annuity.

The additional annuity benefits which would be provided by the draft bill for each cost-of-living annuity increase authorized on or after its enactment would increase the unfunded liability of the Civil Service Retirement and Disability Fund. Assuming, for example, that

the draft bill is enacted and that then a 5 percent cost-of-living annuity increase is effective June 1, 1971, the unfunded liability of the Fund would be increased by $9.2 million. The annual interest on this $9.2 million would be $300,000.

Under 5 U.S.C. 8348(g), the Secretary of the Treasury, before closing the accounts each fiscal year, would have to credit to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated, the following percentages of all interest on the unfunded liability existing at the start of each fiscal year: 10 percent for 1971; 20 percent for 1972; 30 percent for 1973; 40 percent for 1974; 50 percent for 1975; 60 percent for 1976; 70 percent for 1977; 80 percent for 1978; 90 percent for 1979; and 100 percent for 1980 and for each fiscal year thereafter. No payment would be required for fiscal year 1971, because the liability would be incurred after the start of that year. The Secretary of the Treasury would, at the end of fiscal year 1972, have to pay into the Fund 20 percent of the $300,000 annual interest resulting from the assumed June 1, 1971 cost-of-living increase, plus, at the end of each subsequent fiscal year through 1980, the above-mentioned graduated percentages of the annual interest, so that the full $300,000 annual interest amount would be paid at the end of fiscal year 1980 and each fiscal year thereafter.

Each additional cost-of-living annuity increase authorized subsequent to fiscal year 1971 would have a cumulative effect on the retirement Fund's unfunded liability and the annual interest thereon. If, for example, there is one cost-of-living annuity increase of 5 percent in each fiscal year 1971 through 1980, the unfunded liability would be increased by a little over $92 million, and the annual cumulative interest payment due the Fund from the Secretary of the Treasury at the end of fiscal year 1981 would be a little over $3 million.

To the extent that employees delayed retirement by a few months, they would (1) pay contributions to the Fund for a longer period, and (2) not receive any annuity for those months--a combination necessarily resulting in more money in the Fund. On the other hand, to the extent that employees who would have retired after the effective date of the cost-of-living increase anyway receive a higher annuity than they would have received if they had retired on the effective date, more money would be paid out of the Fund. The estimated change in the cash flow for the next five years is shown below:

EFFECT OF DRAFT LEGISLATION
ON CASH FLOW
(In millions of dollars)

I. If there were a single cost-of-living increase of 5 percent, effective June 1, 1971, payable July 1, 1971.

Fiscal Year	Effect On Payments Into Fund	Effect on Payments Out of Fund: Benefit Payments	Administrative Expenses	Total Payments
1972	$1.05	-$4.66	-$0.25	-$4.91
1973	(a)	1.31	(b)	1.31
1974	(a)	1.27	(b)	1.27
1975	(a)	1.24	(b)	1.24
1976	(a)	1.21	(b)	1.21

(a) No effect on payments into Fund

(b) No effect on payments out of Fund

II. If there were a cost-of-living increase of 5 percent effective on June 1 of each year, 1971-1976, payable July 1 of those years.

Fiscal Year	Effect On Payments Into Fund	Effect on Payments Out of Fund: Benefit Payments	Administrative Expenses	Total Payments
1972	$1.05	-$4.66	-$0.25	-$4.91
1973	1.05	- 3.35	- 0.25	- 3.60
1974	1.05	- 2.08	- 0.25	- 2.33
1975	1.05	- 0.84	- 0.25	- 1.09
1976	1.05	0.37	- 0.25	0.12

We shall appreciate your informing us whether there is any objection to submission of the draft legislation as proposed.

By direction of the Commission:

Sincerely yours,

Chairman

Attachment

A BILL

To liberalize eligibility for cost-of-living increases in civil service retirement annuities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 8340(c) of title 5, United States Code, is amended by renumbering paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting the following new paragraph:

"(1) An annuity, except a deferred annuity under section 8338 of this title or any other provision of law, payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member, which commences after the effective date of an annuity increase under subsection (b) of this section but not later than the effective date of the next such annuity increase, shall not be less than the annuity which would have been payable had the employee, Member, widow, or widower been eligible for annuity, and had the annuity commenced, on the first described effective date."

SEC. 2. This Act shall apply only with respect to annuities commencing on or after the date of enactment of this Act.

UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

Honorable Carl Albert

Speaker of the House of Representatives

Dear Mr. Speaker:

The Commission submits for the consideration of the Congress, and recommends favorable action on, the attached legislative proposal which provides that the immediate (not deferred) Civil Service Retirement annuity of an employee or Member of Congress retiring after the effective date of a cost-of-living annuity increase shall not be less than his annuity would have been if he had retired and had been eligible for annuity on the effective date. Similarly, the proposal provides that the annuity of an employee's or Member's widow(er) commencing after the effective date of a cost-of-living annuity increase shall not be less than it would have been if it had commenced on the effective date.

Whether an employee's annuity will be greater computed on the basis of (1) service and salary up to the effective date of the most recent cost-of-living increase, plus that percentage increase or (2) all service and salary up to the date of actual separation, without a cost-of-living increase, depends on factors which vary with the individual. Assuming a normal pattern of past and future salary increases, and a 5 percent cost-of-living increase, an employee would need 3-10 additional months' service, depending on his total years of service, for his annuity without the cost-of-living increase to equal the amount he could get if he had retired on the effective date of the cost-of-living increase. Under the proposal, an employee would in all cases receive the larger annuity.

The present cost-of-living adjustment provision, found in 5 U.S.C. 8340, provides that an employee must retire and his annuity must commence on or before the effective date of a cost-of-living annuity increase in order to have it applied in the computation of his annuity. The reasons for the proposed change are:

(1) The present provision produces the anomaly of an employee who retires soon after the effective date of an increase receiving less annuity than

an employee, with the same service beginning date and high three-year average salary, who retires on or before the effective date, even though the employee who retires after the effective date has more service. A similar anomaly exists in computing a survivor's annuity because the survivor of an employee who dies on or before the effective date of a cost-of-living increase receives the increase, but the survivor of an employee who dies after the effective date does not receive it.

(2) We are concerned about the way the large number of retirements triggered by cost-of-living adjustments affects the administration of the Civil Service Retirement System. The present cost-of-living adjustment provision "bunches" retirements immediately before the effective date of every cost-of-living annuity increase by accelerating the retirements of employees who had been planning to leave within six months or so after that date. The last such increase, effective August 1, 1970, for example, produced about 19,000 retirements in addition to the 5,000 or less that occur in a normal month. Despite the Commission's plans to cope with such a peak load, work is disrupted and annuity payments are seriously delayed when so many retirements that would otherwise have been evenly spaced over a period of several months occur at the same time.

(3) Agencies throughout the Government are also adversely affected because an inordinate number of employees decide to retire immediately before a cost-of-living annuity increase. Many of these people, if they are willing, must be reemployed as annuitants to complete the projects on which they were working.

Enactment of the draft bill would (1) eliminate the anomaly between annuities that commence on or just before the effective date of a cost-of-living increase and those that commence shortly after that date; (2) moderate the peaking of retirements immediately before cost-of-living increases become effective, with an estimated savings of $250,000 in administrative expenses now charged against the Civil

Service Retirement and Disability Fund for processing the peak workload that accompanies each cost-of-living adjustment; and, (3) reduce the disruption in the work of agencies throughout the Government caused by many employees suddenly retiring at the same time, with many leaving work projects incomplete.

To the extent that employees delayed retirement by a few months, they would (1) pay contributions to the Fund for a longer period, and (2) not receive any annuity for those months--a combination necessarily resulting in more money in the Fund. On the other hand, to the extent that employees who would have retired after the effective date of the cost-of-living increase anyway receive a higher annuity than they would have received if they had retired on the effective date, more money would be paid out of the Fund.

The additional annuity benefits which would be provided by the draft bill for each cost-of-living annuity increase authorized on or after its enactment would increase the unfunded liability of the Civil Service Retirement and Disability Fund. Assuming, for example, that the draft bill is enacted and that then a 5 percent cost-of-living annuity increase is effective June 1, 1971, the unfunded liability of the Fund would be increased by $9.2 million. The annual interest on this $9.2 million would be $300,000.

Under 5 U.S.C. 8348(g), the Secretary of the Treasury, before closing the accounts each fiscal year, would have to credit to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated, the following percentages of all interest on the unfunded liability existing at the start of each fiscal year: 10 percent for 1971; 20 percent for 1972; 30 percent for 1973; 40 percent for 1974; 50 percent for 1975; 60 percent for 1976; 70 percent for 1977; 80 percent for 1978; 90 percent for 1979; and 100 percent for 1980 and for each fiscal year thereafter. No payment would be required for fiscal year 1971, since the liability would be incurred after the start of that year. The Secretary of the Treasury would, at the end of fiscal year 1972, have to pay into the Fund 20 percent of the $300,000 annual interest resulting from the assumed June 1, 1971 cost-of-living increase, plus, at the end of each subsequent fiscal year through 1980, the above-mentioned graduated percentages of the annual interest, so that the full $300,000 annual interest amount would be paid at the end of fiscal year 1980 and each fiscal year thereafter.

Each additional cost-of-living annuity increase authorized subsequent to fiscal year 1971 would have a cumulative effect on the retirement Fund's unfunded liability and the annual interest thereon. If, for example, there is one cost of living annuity increase [illegible] percent

in each fiscal year 1971 through 1980, the unfunded liability would be increased by a little over $92 million, and the annual cumulative interest payment due the Fund from the Secretary of the Treasury at the end of fiscal year 1981 would be a little over $3 million.

The Office of Management and Budget advises that there is no objection to the submission of this draft bill to Congress, and its enactment would be consistent with the Administration's objectives.

A similar letter is being sent to the President of the Senate.

By direction of the Commission:

Sincerely yours,

Chairman

Attachment